

TOP SECRET/SENSITIVE**THE WHITE HOUSE****WASHINGTON****PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD**

NSC Review Complete as Redacted.

December 3, 1976**Dear Mr. President:**

On 11 March 1976, you appointed me Chairman of a newly constituted and enlarged Foreign Intelligence Advisory Board and entrusted it with maintaining, on your behalf, a continuing review of the activities and conduct of our foreign intelligence programs.

In the nine months that it has been our privilege to serve you, we have had five two-day meetings in plenary session, panel meetings on topics ranging from Soviet intercept activities in the United States to terrorism, as well as a number of specialized briefings and discussions with discrete elements of the intelligence community. We have had three meetings with you -- two at our request, and one at yours.

In our final meeting with you, Mr. President, we are submitting two reports. The first is a summary of those matters which have been of principal concern to the Board and includes recommendations which we believe must be pursued by the next Administration. The second is a response to your instructions last summer for the Board to assess U.S. intelligence needs for the future. In the preparation of this second report, we met with scholars, former Government officials, and the current leadership of the intelligence community. We submit these views in the hope that they will assist you in identifying for the next Administration those areas where good intelligence can play a significant role in safeguarding our national interests.

Finally, Mr. President, we believe that we have been helpful to you and to the nation. We deeply appreciate the opportunity you have given us and the personal interest you have taken in our work. The record demonstrates that a useful Board is one which has unimpeded access to the President. You have provided that access, and we are grateful for your confidence.

Respectfully,

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**Leo Cherne
Chairman****The President
The White House
Washington, D. C.****TOP SECRET/SENSITIVE**

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Summary of Activities of
The President's Foreign Intelligence Advisory Board

Since its reconstitution in March 1976, the Board directed its primary attention to those intelligence issues which transcend the responsibilities of any single agency or department and which, in our view, either impact directly on the intelligence support for national security, impair the performance of the intelligence mission, or will substantially improve the intelligence product. We have met regularly with the Director of Central Intelligence, and, as appropriate, with other department and agency heads of the intelligence community. We have also discussed a wide range of substantive and organizational intelligence issues with the Assistant to the President for National Security Affairs, the Secretaries of State, Defense, and Treasury, and the Attorney General.

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Briefly, your Board has developed experimental procedures in an effort to improve the intelligence estimating process. [REDACTED]

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[REDACTED] and examined the new social and moral climate in which our intelligence agencies must function. We have interceded to preserve the managerial integrity of the national reconnaissance organization, and our review of intelligence on international terrorism leads us to believe that the Government mechanisms for dealing with terrorism are inadequate. We have sought to improve the relationship between intelligence producers and intelligence consumers. And we have made a specific recommendation for the development of a national counterintelligence policy.

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The effectiveness with which we have discharged our responsibilities is for others to judge. We are satisfied that progress on those issues which were brought to your attention would have been difficult without your expression of personal interest. We believe that we have provided the DCI with certain insights and perceptions which he might not have gained elsewhere, and we feel that the expression of your interest and support, as it has been reflected by our meetings and inquiries with a variety of elements in the intelligence community, has served to improve the intelligence product.

In this final report, Mr. President, we have selected five matters on which we have been working, and which, in our view, require continuing attention -- a few words on each:

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Soviet Intercept of U. S. Telecommunications Links

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The complex legal and jurisdictional issues attendant on the development of a national countermeasures program have met with inevitable bureaucratic foot-dragging. These delays notwithstanding, we understand that by 1 December 1976 you should have had a detailed long-range action plan and proposals for the management structure to direct and oversee its implementation. In our view, the national interest requires that the momentum of this program be sustained during the transition and that it be accelerated by the new Administration.

It is to state the obvious that the Soviets attach the greatest importance to intelligence on attitudes, priorities, and programs of the new Administration. We have therefore urged that high priority be given to briefing President-elect Carter and his principal advisors on the vulnerability of our telecommunications networks, and the importance of not discussing sensitive policy or security matters on non-secure telephones.

The Competitive Analysis Experiment

Since its establishment in 1956, the President's Foreign Intelligence Advisory Board has been concerned with the adequacy of strategic intelligence. This focus was sharpened in 1969 when President Nixon assigned the Board the task of annually reviewing the intelligence community estimates

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of Soviet forces for intercontinental warfare (NIE 11-3/8). The Board's assessment of the strategic estimate for 1974 was conveyed to you in a letter dated 8 August 1975, in which we noted the following deficiencies:

-- the estimate is seriously misleading in the presentation of a number of key judgments and in projecting a sense of complacency unsupported by the facts;

-- the estimate contains judgments in critical areas which are made with the force of fact, although the cumulative evidence is conflicting, often flimsy, and in certain cases does not exist; and

-- the NIE gives the appearance of a net assessment by encompassing judgments on the survivability of U.S. forces; yet such judgments have not been subjected to critical analysis in the estimating process.

The letter also included proposals for correcting the deficiencies we had observed.

At our meeting with you in August 1975, you requested us to follow up with specific proposals for implementing the suggestions outlined in our letter. These proposals were subsequently submitted to your Assistant for National Security Affairs and, through him, to the DCI, who rejected them. As a result, a subcommittee of the Board was established which undertook an intensive four-month review of the intelligence estimating process. This review sought to evaluate the purposes of National Intelligence Estimates; the extent to which these purposes are served; and the adequacy of the estimates as seen by principal users and their level of confidence in them. Further, at the committee's request, the DCI's National Intelligence Officer undertook a study of the intelligence community's 10-year track record in strategic estimating. In the course of its review, the committee held discussions with approximately 40 authorities ranging from intelligence analysts and managers to intelligence consumers and private citizens well informed on U.S./Soviet strategic relationships. A detailed analysis of the committee's findings was submitted to the full Board in April 1976. This report established that opinions of the NIE's purpose, utility, and accuracy vary greatly, but were generally negative, thus underscoring the concerns expressed in the Board's letter to you of 8 August 1975. The full Board endorsed the report and transmitted it to the Assistant to the President for National Security Affairs with the notation that the members believed it could make an important contribution towards improving the NIE process, and urging

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that it be shared with the Committee on Foreign Intelligence at the earliest opportunity. Recognizing that the exchange of correspondence initiated by the Board's 8 August 1975 letter contributed to a resentment of the views expressed rather than an acceptance of the helpful spirit in which they were tendered, the Board worked directly with the DCI's chief National Intelligence Officer to implement the competitive assessment experiment -- a principal recommendation in the report. This recommendation, in summary, is as follows:

-- With respect to certain key issues -- Soviet ICBM accuracy, Soviet low-altitude air defense capabilities, and Soviet strategic policy and objectives -- a competitive analysis should be conducted by persons inside or outside the intelligence community and the Government who have expert knowledge of the subjects in question, but who themselves are not engaged in the production of the NIE.

The experiment will not be completed before January 1977, at which time it will be evaluated by a senior review panel composed of people selected by your Assistant for National Security Affairs, in consultation with the DCI and the Board. At our meeting on 2 December 1976 we were briefed on the key issues by the three "A" Teams representing the intelligence community and, alternatively, by the three "B" Teams of outside experts; the DCI attended the presentations on Soviet strategic policy and objectives. While several steps in the experiment remain to be completed, the stimulative and beneficial effects of the extensive interaction between the teams were very evident. Although we would not wish to prejudge the final evaluation, the presentations confirm the Board's judgment that the development of alternative and/or substantiating views by experts outside the intelligence agencies should continue in the production of National Intelligence Estimates.

Mr. President, we believe that the Board's work with the National Intelligence Estimates will enhance their value to decision-makers, and that it is critically important that the work which we have begun be carried on.

Economic Intelligence

With your encouragement, the Board has continued to assess the structure of the economic intelligence community and to evaluate the adequacy of its product.

We find economic intelligence covers such a broad range of interests and the amount of data available is so enormous that intelligence producers require continuous feedback and guidance to ensure that the intelligence product meets the needs of policy-makers. A number of institutional mechanisms have been created for this purpose in the past, but were abandoned because they were not effective. In June 1976, we proposed to the Secretary of Treasury that at appropriate intervals, principals of the Economic Policy Board schedule meetings with the DCI and his senior economic intelligence officers. The first such meeting was held on 9 November, with promising results.

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We have reviewed the intelligence product dealing with the broad subject of technology transfer and find that it is generally restricted to military implications or the effect of an isolated sale of a high-technology product or technique. There is not now available for policy-makers a comprehensive analysis of the effects on Soviet bloc objectives and Soviet bloc society of the flow of Western and Japanese technology. We believe that an effective U.S. trade policy for high-technology items -- and the consideration of restraints which might be applied in the national interest -- require a projective and comprehensive analysis which combines an assessment of the political, military, economic, and scientific considerations attendant on the West-to-East flow of technology.

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Legal and Constitutional Issues

Mr. President, when we met with you in June, it was to express our uneasiness about the Attorney General's guidelines governing electronic surveillance, our concern over legislation pending in Congress, and our anxiety that the implications for intelligence in each of these initiatives were not clearly understood.

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Abuses in the intelligence community were revealed at a time when the direction of judicial decisions was already moving towards the further protection of individual privacy from incursions by the government. This has created a dilemma which has not been satisfactorily resolved and which, by its very nature, may resist resolution. The dilemma resides in the following circumstances.

In restricting certain activities of the intelligence community, the President's ability to fulfill his responsibilities for the national security has been diminished. Thus, while individual rights to privacy appear to have been strengthened, the collective right of the people to be secure has been weakened. Specifically, we noted that the Attorney General's guidelines prohibited the conduct of a damage assessment of Soviet signals intelligence activities in the U.S. on grounds that it would violate Fourth Amendment

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rights of American citizens. Yet the Soviets were abridging these rights on an unprecedented scale and with impunity, and the damage assessment was required for the development of a countermeasures program. We also noted that the guidelines were minimizing the value of certain intelligence product by requiring the elimination of some identifying content; that intelligence support to the Secret Service had been curtailed; and that significant reporting on international economic and monetary matters was being sharply curtailed. Your intervention helped to secure an amelioration of several specific restraints, but this has only reduced the dilemma in which we find ourselves.

We recognize that there may be an inherent conflict between the constitutional rights of individuals and actions required in support of the President's obligation to protect the national security. The potential conflict notwithstanding, however, the Board's concern was that efforts in the direction of protecting individual rights were an overreaction to earlier abuses and very possibly beyond the requirements of the Constitution. These problems have been further complicated by the lack of sanctions to support the DCI's statutory responsibility to protect sources and methods; by the impact on the intelligence community of the Freedom of Information and Privacy Acts; and by a changed moral and ethical climate which appears to remove the restraints from those entrusted with sensitive state secrets, all of which contribute to the alarming degradation of the nation's ability to deal with foreign espionage.

A very troubling aspect of this dilemma is the insidious repercussions on individual managers, collectors, and analysts throughout the intelligence community. The intelligence community has responded to recent investigations and publicity with an apparent stiff upper lip and determination to carry on. But we sense an erosion of the intelligence officer's belief in the worth of his endeavors, and the enthusiasm, initiative and imagination which such a belief generates. The difference between excellence and mediocrity in intelligence is difficult to measure and certainly cannot be perceived by the American people. But it is a vital difference in the effort to maintain the nation's safety and well-being.

Counterintelligence

The United States is the first priority of Soviet espionage and a principal intelligence target of nations throughout the world, yet it continues to deal piecemeal with the problem of internal security. The Soviet military threat

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is photographed, measured, and assessed. The threat to national security from espionage and subversion is equally real, but largely intangible and invisible. It is a threat not of machines but of the actions of human beings. As a country which cherishes the rights and freedoms of the individual, we have constitutional, legal, and ethical problems in dealing with it.

Responsibility for counterintelligence and counter-subversion in the United States has developed haphazardly within the nation's principal law enforcement agency -- the FBI -- and has become a source of that agency's difficulties with intelligence investigators. There is no broad national policy on counterintelligence or internal security. Conflicting bureaucratic responsibilities are unresolved, and the statutory base of authority is obscure and open to challenge. Law enforcement responsibilities start with evidence of a crime which is defined by our legal code. The primary challenge of counterintelligence is to prevent a crime -- the compromise of national security -- and only secondarily to apprehend the perpetrators. Counterintelligence starts not with the fact that a crime has been committed, but with a tenuous lead or circumstantial evidence which suggests the intent to commit one. It is investigations based on the supposition of intent which have raised Fourth Amendment questions.

There have been improprieties, abuses, and illegalities in the conduct of certain counterintelligence activities. It is now urgent there be a properly conducted counterintelligence program which pursues a coherent counterintelligence policy.

The Board has recommended the drafting of a national counterintelligence policy directive and the establishment at a senior level of a mechanism to both implement the policy and to coordinate the activities of the five separate agencies which currently engage in foreign counterintelligence. These and similar recommendations were incorporated in a draft Executive Order by the DCI and are now being circulated for comment. The sensitive legal issues involved and the divergent interests which share the foreign counterintelligence responsibility will require strong executive leadership to reach a satisfactory resolution.

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D. The Search for Vulnerability.

One major concern of the intelligence community, as we have previously observed, should be the earliest possible awareness of technological breakthroughs in other countries which could have a serious impact on our and other economies. It appears less realistic -- and certainly less prudent -- to assume that this may not occur; thus, a sustained intelligence alert focused on this possibility could be of immense importance.

To make our intelligence system capable of responding to requirements such as this, it would be extremely desirable to have an economic counterpart to the National Security Council, or as an alternative, a greater concentration of economic expertise and activity within the NSC which could provide the necessary guidance, direction, evaluation and feedback to the intelligence community not only on the economic issues that contain enormously important national security implications, but especially on scientific and technological breakthroughs which could profoundly affect our and other economies.

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An Intelligence Estimates Evaluation Committee should be made a permanent body of the PFIAB, with a rotating membership.

D. Communications and Computer Security.

Signals intelligence techniques have become widely understood and employed by many nations for intelligence purposes and, to a lesser extent, by individuals for illegal purposes. The degree of sophistication of these activities will undoubtedly grow and we anticipate serious vulnerabilities in the decade ahead from both foreign governments as well as from private citizens intercepting U.S. communications and tapping into computer data storage facilities. Openly available "how-to-do-it" literature and equipment appears likely to encourage an increase in this latter category. Individuals -- when caught -- are prosecuted. Governments, on the other hand, enjoy diplomatic immunity and thus are largely beyond the force of law.

We believe there is a need to examine thoroughly the legal, social and political implications of this growing hazard, and the extent of the

Government's responsibilities to the public in informing, protecting and making possible the means for thwarting the intrusions. We are aware of some individual agency efforts in this regard but remain persuaded that a deeper and more comprehensive approach is required.